



COMMUNITY DEVELOPMENT DEPARTMENT

Planning Division

129 North Second Street, 2nd Floor Yakima, Washington 98901

Phone (509) 575-6183 • Fax (509) 575-6105

ask.planning@yakimawa.gov • <http://www.yakimawa.gov/services/planning/>

NOTICE OF APPEAL TO CITY COUNCIL

DATE: August 18, 2015

TO: Appellant & Parties of Record

FROM: Joan Davenport, Community Development Director

SUBJECT: Notice of Appeal for the Hearing Examiner's Decision upholding the approval of the Administrative Official's Decision for Land Use Application numbers CL2#019-14 and CL2#004-15.

File Number(s): APP #005-15

Tax Parcel Number(s): 181313-11504

Location: 1300 N. 1st St., Yakima, WA

NOTICE OF APPEAL

The City of Yakima Department of Community Development has received an appeal of the Hearing Examiner's Decision regarding an appeal of the Administrative Official's decision for CL2#019-14, approving construction of a parking lot, and CL2#004-15, approving the construction of a new health care clinic for the Union Gospel Mission in the GC/M-1 zoning district. The appeal was filed by William Brado, 201 Oak Street, and the Yakima Gateway Organization.

NOTICE OF PUBLIC MEETING

In accordance with YMC § 15.16.050, this application for an Appeal of the Hearing Examiner's Decision to the Yakima City Council requires a Public Meeting. A closed record public meeting before the Yakima City Council will be scheduled to be held in the City Hall Council Chambers at 129 North 2nd Street, Yakima, WA. Pursuant to YMC § 16.08.030(C) The closed record appeal shall be on the record before the city council, and no new evidence shall be presented. The record shall include all materials received in evidence at any previous stage of the review, audio/visual tapes of the prior hearing(s), and the final order being appealed, and argument by the parties at the examiner's hearing.

NOTICE OF AVAILABILITY OF APPEAL MATERIALS

Appellant and Parties of Record, please be advised that additional information, including the appeal applications, Notice of Appeal, and any written argument or memorandum of authorities accompanying the appeals may be obtained from the City of Yakima Planning Department upon request at, 129 N 2nd Street, Yakima, Washington, or found on the City of Yakima Planning website under Quick Links: <http://www.yakimawa.gov/services/planning/>

APPELLANT AND APPLICATION OPPORTUNITY TO SUBMIT WRITTEN ARGUMENT OR MEMORANDUM

Parties of record for appeal APP#005-15 wishing to respond to the filed application may submit a written argument or memorandum to the legislative body no later than **5:00 p.m. Wednesday, September 16, 2015**. Please be advised that all written argument or memorandum must be submitted by the above date as the City of Yakima Community Development Department has provided for the maximum time allowed for the submittal of written argument or memorandum in accordance with YMC § 15.06.040(B)(2). In addition, all argument or memorandum shall not include the presentation of new evidence and shall be abased only upon the facts presented to the examiner.

Upon completion of the legal required timeframe to submit written argument or memorandum a public hearing before the Yakima City Council will be scheduled by the City of Yakima Clerk to hear the appeal.

NOTICE ON FUTURE ACTION ON APPEAL

Decision and future notices will be sent to parties of record.

If you have any questions on this proposal, please contact Trevor Martin, Assistant Planner at (509) 575-6162 or by e-mail at trevor.martin@yakimawa.gov.

Encl: Appeal application

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Supplemental Application for:

APPEAL

Yakima Urban Area Zoning Ordinance Chapter 15.16

- | | |
|--|--|
| <input type="checkbox"/> Of Administrative Official's Decision | <input checked="" type="checkbox"/> Of Hearing Examiner's Decision |
| <input type="checkbox"/> Of Subdivision Administrator's Decision | <input type="checkbox"/> Of SEPA Determination |
| <input type="checkbox"/> Other _____ | |

Appeal of File Number: APP#002-15

Date Action Taken: 7/13/15

1. Description of Action Being Appealed: See Attachment.

2. Reason for Appeal: Describe the specific error(s) or issues(s) upon which the appeal is based, including an explanation of why the decision is not consistent with the Yakima Urban Area Plan, The Yakima Urban Area Zoning Ordinance, or other provisions of law. (Reference the section, paragraph, and page of the provision(s) cited.) (Attach if lengthy)

See Attachment.

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Attachment to Notice of Appeal

1. Description of Action Being Appealed:

William Brado and the Yakima Gateway Association, pursuant to YMC 15.60.040(a), appeals the Hearing Examiner Decision "In the Matter of the Appeals of Two Class (2) Use Approvals Issued to the Union Gospel Mission" submitted by William Brado and the Yakima Gateway Association relative to construction of additional parking, health care clinic facilities and residential dormitory units at the existing Union Gospel Mission site located at 1301 North 1st Street, APP#002-15 issued on July 9, 2015 and published on July 13, 2015 (herein "Decision").

2. Reasons for Appeal: Describe the specific error(s) or issue(s) upon which the appeal is based, including an explanation of why the Decision is not consistent with the Yakima Area Urban Area Plan, Yakima Urban Area zoning Ordinance or other provisions of the law (reference to section, paragraph and page of the provision(s) cited):

(a) The Hearing Examiner erred in holding the UGM expansion applications were subject only to Class 2 review because the City zoning code has never been amended to permit Mission uses as Class 2 uses in the GC/M1 zoning districts. Any amendment of a zoning ordinance to include additional permitted uses within a zone is a legislative action vested in the City Council and not within the authority of the Hearing Examiner. RCW 42.36.010, Raynes vs. City of Leavenworth, 118 Wn.2d 237, 821 P.2d 1204 (1992).

(b) The Hearing Examiner erred in failing to apply the provisions of the 1994 Settlement Agreement Re: Union Gospel Mission Relocation ("Settlement Agreement") and require Class 3 review of Application Nos. CL2#019-14 ("Parking Lot Application") and CL2#004-15 ("Facility Expansion Application").

(1) Settlement Agreement controls future development at UGM's site. The Hearing Examiner failed to recognize the Settlement Agreement was in the nature of a binding development agreement without which the initial development of the Mission property would not have occurred and which controls future development at the UGM site.

(c) The Hearing Examiner erred in determining the City's "Supplemental Notice of Application and Appeal" for the Parking Lot Application on May 28, 2015, cured the City's failure to give notices required by YMC 15.14.040B.

(d) The Hearing Examiner erred in holding the City adequately considered the compatibility as required by YMC 15.04.020B and C, ignoring evidence of past and current Union Gospel Mission ("UGM") operations which demonstrate incompatibility in fact.

(e) The Hearing Examiner erred in determining the expanded uses pursuant to the Parking Lot and Facility Expansion Applications were compatible with existing uses. Contrary to YMC 15.04.020B and C, and contrary to the specific purpose and intent of the Urban Area Zoning Ordinance specified in YMC 15.01.030 (3) and (10).

(f) The Hearing Examiner erred in determining access to the UGM facility from Oak Street was permitted for any purpose except delivery of utility services.

3. Request for Extension of Time to File Memorandum:

Appellants request the period of time in which to file a Memorandum pursuant to YMC 15.16.040B2 be extended to 29- days after mailing the Notice of Appeal, the same extension granted in APP#004-15 in which the City of Yakima is an appellant, and which involves similar issues.

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